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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/138,807	08/21/1998	RAMANATHAN RAMANATHAN	INTL-0083-US	4545
21906	7590	07/12/2006	EXAMINER	
TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/138,807	RAMANATHAN, RAMANATHAN	
	Examiner	Art Unit	
	Jason P. Salce	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 April 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-18,20-23 and 25-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-18,20-23 and 25-43 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/24/2006 have been fully considered but they are not persuasive.

In regards to claim 12, Applicant argues that Kenner's SRU Access Count Rate for a particular SRU does not provide details about the transmission of a requested video clip from the time a data structure is created. The examiner disagrees and again notes Column 15, Lines 35-44, which describes when a DS1 30 is created and the PIM 22 transmits a data structure that identifies the requested video clips, where the data structure contains an SRU Access Count Rate which is continually updated at Column 16, Lines 57-59. The examiner notes that if a counter is created and is continually updated, that tracking a transmission from the time a handle to the first marker is obtained (the initial creation of the data structure counter field) is clearly taught).

Further, the applicant argues that the SRU Access Rate Counter does not provide information about the requested video clip before successful delivery. The examiner notes that the claim limitations are broad and do not state any limitation stating that the tracking must occur before successful delivery. The claim only state from a time (any time) that the data structure counter field is created, which Kenner teaches at Column 15, Lines 35-44 for the initial creation of the data structure counter field and the further updating of the counter field at Column 16, Lines 57-59.

In regards to claim 16, Applicant argues that Kenner cannot call a method to use access rate data at an unrestricted or indiscriminate time after a handle is provided and

that with Kenner, access data rate data is only updated after successful download of a video clip. Again, the claim limitations are broad and only states calling a method at any time, therefore when the software of Kenner determines that a successful download of a video clip has occurred (at any time after the first method was called to created the counter field) a method is executed to update the counter field.

Applicant also argues that the DSI is created just before video data download and is destroyed immediately thereafter, Column 12, Lines 14-18. The examiner notes that this portion of Kenner only states that the DSI instance within the PIM is destroyed, and that the DSI resides in the extended and local components in order to collect, manage and buffer data which is transmitted from extended, remote and local SRUs (see Column 12, Lines 5-13). Further note that if the DSI was destroyed immediately, at these components that none of the continuous tracking taught by Kenner at Column 14, Lines 19-21 and Column 16, Lines 57-59.

In regards to claim 26, Applicant argues that because a data structure is created for a particular user request, a video clip that is the subject of that request is distributed to that user's terminal only and that the claim calls for distribution to a plurality of receivers. The examiner disagrees and note that a video clip can be accessed by multiple user terminals at Column 7, Lines 16-17 and that the tracking of these video clips can be tracked by use of the counter (see again Column 16, Lines 57-59).

Applicant further argues that the ping program pings a particular computer or destination and is not transmitted to a plurality of receivers. Note that Column 27, Lines 54-61 clearly state that multiple SRUs (which receive the video clips) can be pinged,

therefore a ping can be sent to a plurality of receivers. Further note that Kenner also teaches that the PIM also separately stores usage information at Column 22, Lines 38-40, which tracks the historical frequency of a clip across days and hours, thereby determining an elapsed time (time passed between each video clip access) from the time of creation (Column 22, Lines 34-35).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12-18, 20-23, 25-34 and 36-42 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kenner et al. (U.S. Patent No. 6,956,716).

Referring to claim 12, Kenner discloses a transmission system (Figure 1) comprising an encoder (see content provider region 91 in Figure 4 and Column 21, Lines 6-14) that combines different transmissions to a plurality of receivers (see Column 4, Lines 36-46 and Column 27, Line 64 through Column 28, Line 7 for transmitting video clips coupled with corresponding database information (thereby combining different transmissions) and Figure 1 for teaching a plurality of user terminals (14 and 48)).

Kenner also discloses a device that sets a first marker in the transmission (see Column 28, Lines 1-5 for a software tool at the content provider setting a first marker (video ID) in the transmission (video clip)).

Kenner also discloses a counter to track the transmission (see Column 13, Lines 55-67 for a counter (SRU Access Count Rate) that tracks the transmissions (video clips) over the network system) from the time a handle to the first marker is obtained (Column 15, Lines 35-44 for creating the data structure containing the counter, thereby creating a handle to a first marker (the data structure for each video clip (with video ID) stored in a particular database)), said handle to enable said first marker for tracking (see Column 16, Lines 57-59 for tracking each video clip (with video ID) by updating the data structure, therefore the handle (data structure) enables the first marker (video ID) to be tracked throughout the network system).

Referring to claim 13, Kenner discloses a content provider and a broadcast encoder coupled to said content provider (see content provider section 91 in Figure 4, which provides PIM 22 (or any IM, such as IM 90) and DSI 30, which represents a content provider and broadcast encoder, respectively). The examiner notes that the content provider 90 of Kenner contains multiple components all of which could be considered to be a content provider and broadcast encoder in many different combinations.

Referring to claim 14, Kenner discloses that the broadcast encoder sets the first marker in a video transmission (see content provider 90 in Figure 1 and note Column 27, Line 64 through Column 28, Line 7 for the content provider 90 (which contains

multiple components that be interpreted as the broadcast encoder) containing a software tool for inserting the Video ID into the video transmission (video clip)).

Referring to claim 15, Kenner discloses that the content provider sets the first marker in a video transmission (see content provider 90 in Figure 1 and note Column 27, Line 64 through Column 28, Line 7 for the content provider 90 containing a software tool for inserting the Video ID into the video transmission (video clip)).

Referring to claim 16, Kenner discloses an article comprising a medium for storing instructions that cause a computer to (see Figures 1-4) set a first marker in a transmission (see Column 28, Lines 1-5 for a software tool at the content provider setting a first marker (video ID) in the transmission (video clip)).

Kenner also discloses calling one method to provide a handle to said first marker (Column 15, Lines 35-44 for creating the data structure containing the counter, thereby calling a method to provide a handle to said first marker (the data structure for each video clip (with video ID) stored in a particular database)).

Kenner also discloses in response to providing said handle, track the on-going transmission from said first marker (see Column 16, Lines 57-59 for tracking each video clip (with video ID) by updating the data structure, therefore the handle (data structure) enables the first marker (video ID) to be tracked throughout the network system).

Kenner also discloses at any time after said handle is provided (note that at Column 16, Lines 57-59 for continually updating the SRU access counter in the database), call a method other than said one method (see Column 14, Lines 57-62 for using the access rate data for a second software process in the form of network storage

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management logic), said other method to obtain tracking information relative to said first marker (see Column 31, Lines 6-52 for tracking the number of times video clips (with video IDs/first markers) have been accessed) without terminating said tracking from said first marker (see Column 31, Lines 6-7 for the tracking being maintained for each video clip downloaded from the SRU, therefore the tracking is not terminated), said tracking information current as of the time said other method is called (see Column 31, Lines 7-10 for the tracking information being current from the conclusion of the last file transfer, therefore the tracking information is current as of the time the other method was called, because the first method is the creation of the video clip being stored as well as the database information corresponding to each video clip, therefore continually receiving performance information is current after the information was created).

Referring to claim 17, Kenner discloses receiving web content transmissions and accompanying television broadcasts from a content provider (see Column 23, Lines 15-20 for receiving a video guide in the form of web content transmissions with describe accompanying television broadcasts from a content provider (see Column 23, Lines 3-7)).

Referring to claim 18, Kenner discloses instructions that cause the computer to receive a web content broadcast (see Column 23, Lines 3-7 for receiving web pages) with the first marker inserted within the broadcast data (see Column 23, Lines 32-36 and Lines 42-44 for the web pages containing an EMBED tag that contains the video ID), and combine the web content broadcast with a television broadcast and transmit the combined broadcast (see Column 23, Lines 15-20).

Referring to claim 20, Kenner discloses transmitting said transmission to a plurality of receivers (see Figure 1 and Column 25, Lines 46-48 for multicasting a clips to a plurality of users) to display on a display device (see Column 21, Lines 20-24).

Referring to claim 21, Kenner discloses providing a continuous data stream (see Column 31, Lines 59-61 for a video clip (continuous data stream) comprising one or more segments), and setting a first marker and a second marker in said stream (see Column 31, Line 65 through Column 32, Line 5 and Column 32, Lines 38-40 for treating segmented portions of video clips in the same manner as unsegmented video clips, where all the segments contain video IDs and index information (first and second markers), and associate said second marker with a second handle (see Column 33, Lines 4-20 for each segment also having a handle (location for the segment to be stored in the database) and each segment can be accessed according to the video ID and location of the video segment clip stored in the database, therefore a first, second, third, etc. video clip segment can contain a marker (video ID) and a handle (location stored in the database, which is used for future retrieval)).

Referring to claim 22, Kenner discloses calling a method to provide transmission details and the handle (see Column 31, Lines 6-32 for obtaining performance information based on accessed video clips, which also provides the current location of the video clip, in order to move the video clip to it's proper future location so that load balancing can be performed on the server's that store the video clips).

Referring to claim 23, Kenner discloses allowing first and second markers to be accessed separately using separate handles so that transmission details associated

with different portions of a data transmission can be obtained (see the rejection of claims 21 for providing multiple segmented video clips that together comprise an entire video clip and note again Column 31, Lines 6-52 for obtaining transmission details for each video clip and moving the video clip to another server if necessary).

Referring to claim 25, Kenner discloses including instructions to cause the computer to report the transmission (see Column 12, Lines 57-58 and Lines 62-64 of reporting the access information from the DSI 30 back to the PIM 22).

Referring to claim 26, see the rejection of claim 16.

Referring to claim 27, Kenner discloses that the on-going tracking includes counting bits transmitted (see Column 22, Lines 11-45 for the PIM 64 maintaining information about all of the video clips, which includes the size of the file (number of bits) and the usage count, therefore, everytime a user accesses the video clip, the usage count is updated, and the in accordance with the size of the file (the number of bytes), everytime the usage count is updated, the number of bits (bytes that make up the file size) are inherently counted), and also discloses the on-going tracking including an elapsed time from the time when the first marker is transmitted (see Column 27, Lines 54-61 for determining the elapsed time of a test packet). . Further note that Kenner also teaches that the PIM also separately stores usage information at Column 22, Lines 38-40, which tracks the historical frequency of a clip across days and hours, thereby determining an elapsed time (time passed between each video clip access) from the time of creation (Column 22, Lines 34-35).

Referring to claims 28-29, see the rejection of claims 17-18, respectively.

Referring to claim 30, see the rejections of claims 14 and 18.

Referring to claims 31-32, see the rejection of claims 16 and 21, respectively.

Referring to claim 33, see the rejection of claim 22 and further note that Kenner discloses after performing the dynamic load management process (see above) terminating a handle when a video clip is moved to a different SRU server and the access list is updated in the index manager's database (see Column 5, Lines 35-36).

Referring to claim 34, see the rejection of claim 23.

Referring to claim 36, see the rejection of claim 16.

Referring to claim 37, see the rejection of claim 16.

Referring to claim 38, see the rejection of claim 21.

Referring to claim 39, see the rejection of claim 33 and further note that in regards to the limitation, "calling a third method other than said first and second methods", the examiner notes that each video clip that is accessed triggers the load balancing process described at Column 31, Lines 6-52, therefore, a first, second, third and possibly more methods can be called to determine transmission details involving determining if a video clip should be moved according to the number of times it has been accessed.

Referring to claims 40-42, see the rejection of claims 23, 18 and 30, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al. (U.S. Patent No. 5,956,716) in view of Echeita et al. (U.S. Patent No. 5,826,165).

Referring to claim 35, Kenner discloses all of the limitations in claim 26, as well as a log-in server (PIM 64 in Figure 4) which contains reported data of transmission details of video clips (see Column 21, Lines 43-46), but is silent for allowing a third party to access said log-in server to receive transmission reporting.

Echeita discloses an Ad Agency Reconciliation Computer (log-in server), which receives reporting data on videos that are transmitted to a user and a Billing Accounts System (third party), which has access to the log-in server to receive the reported data (see Figure 1 and Column 6, Lines 1-10).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the video transmission system, as taught by Kenner, using the reconciliation and billing system, as taught by Echeita, for the purpose of utilizing reconciliation data to finalize the sale and initiate billing of the client for receiving services (see Column 3, Lines 13-14 of Echeita).

Referring to claim 43, see the rejection of claim 35.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623

July 7, 2006

A handwritten signature in black ink, appearing to read "Jason P. Salce".